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UNCLAS SECTION 01 OF 02 ANKARA 002159

SIPDIS

SENSITIVE

EB/CBA FOR FRANK MERMOUD
TREASURY FOR CPLANTIER AND MMILLS
NSC FOR BRYZA AND MCKIBBEN
USDOC/ITA/MAC FOR DAVID DEFALCO

E.O. 12958: N/A

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SUBJECT: PA CONFIDENT ABOUT PRIVATIZATION DEALS, DESPITE
ANOTHER FAILURE

REF: ANKARA 2078

1. (SBU) Summary. Privatization Administration (PA) President Metin Kilci's confidence in the PA's ability to move forward with its ambitious privatization agenda for 2005 has been boosted by proposed changes to the GOT's privatization law that should reduce legal challenges to PA transactions and by the unprecedented strong interest in critical SEEs like Turk Telecom and Erdemir steel company. Yet, the PA announced April 11 the failure of another tender for state tobacco company Tekel. This additional failure suggests the PA may be able to keep selling minority shares through IPO's but will have trouble turning control of large companies over to private sector majority ownership. End Summary.

2. (U) In a April 5 meeting, Privatization Administration (PA) President, Metin Kilci said 2004 was a very good year for privatization and he predicts that 2005 will be an even more productive year. In 2004, cash payments from privatization transactions amounted to \$1.5 billion. In the first three months of 2005 alone, the PA received approximately \$600 million in cash proceeds. Though some of this money came from last year's transactions, \$450 million came from the March 2005 initial public offering (IPO) of 15 percent of state oil refiner, Tupras.

PETKIM AND OTHER SEEs IN THE PIPELINE

3. (U) Kilci was particularly bullish on the PA's upcoming IPO of 30 percent of Turkey's state petrochemical company, Petkim, and considers Petkim a bellwether privatization for the PA's ambitious privatization agenda (see reftel). The PA launched a road-show for Petkim April 6 in the U.S. and finished the European segment of its tour April 13. Kilci noted that U.S. investors showed a lot of interest in past road-shows for Turkish Airlines (THY) and Tupras, so he was confident the PA would generate similar interest in Petkim. In fact, the PA told Economic Specialist that the road-show had been a success and the PA received higher than expected demand in the preliminary bid collection process. The PA started to receive final bids April 13.

4. (U) Kilci said privatization schedules for other large State Economic Enterprises (SEEs), including Tupras (oil refiner), Turk Telecom, and Erdemir (steel) were on track. After a successful Tupras minority share IPO in March, the Competition Board approved a block sale of a majority of Tupras's shares, and the tender announcement for the sale should be made sometime in April. According to Kilci, Turk Telecom (TT) is attracting more compelling interest than ever before. There are currently 10 domestic and foreign parties showing strong interest. The PA will be collecting bids for the 55 percent block sale on May 31, as scheduled. Kilci said there is also very high interest in the Erdemir steel corporation. The PA hopes to start the tender process for a 46.12 percent block sale of Erdemir in the second half of April and within two or three months of opening the tender, the PA believes it can evaluate the viability of interest.

LEGAL PROBLEMS REMAIN

5. (U) Electricity Distribution Privatization: Kilci said the electricity distribution privatization--intended to start in March--was delayed because certain legislative changes that needed to be in place before the privatization have not yet been implemented. Kilci said, however, that the relevant agencies are now agreed on the proposed amendments and they should be sent to the Prime Ministry within weeks. The PA expects to start the tender process within two weeks after the Parliament ratifies the amendments. The PA will use a "hybrid" model whereby they will sell shares of a

newly-created company that holds operating rights for the distribution network rather than by a direct sale of the assets, which will remain with the government. Kilci called this a "transfer of operating rights-based share sale." The term of the operating rights will be fixed between 30-49 years. The asset sales methodology would have required a changed in the Constitution--a move the GOT was not willing to make.

16. (U) Turk Telecom: Kilci also addressed the unresolved constitutional issues concerning the Turk Telecom (TT) privatization. The PA is seeking a ruling from the "Danistay" (Council of State) on a proposed draft concession agreement which will set the terms and conditions of the TT sale. TT's buyer would have full use of the assets and infrastructure of the company, but the state would retain certain rights if the concession agreement were violated.

17. (U) Tekel: A few days after the meeting with Kilci, the PA encountered yet another setback to its privatization agenda with the failure to receive bids on the tobacco operations of state company, Tekel. This was the PA's second failed attempt to sell the tobacco business--the first being spoiled by a GOT decision that the winning bid--\$1.15 billion by Japan Tobacco--was too low and fell short of government expectations. Officials have been reported saying that the lack of buyer interest in Tekel was the result of a recent special consumption tax increase on tobacco products. Tobacco companies originally interested in bidding on Tekel have reportedly requested the GOT to reduce the tax and commit to a fixed five-year tax rate.

OVERCOMING HURDLES

18. (SBU) Despite the above-mentioned challenges, Kilci remained confident that proposed legal amendments to the Law on Privatization Practices could eventually reduce the ability of opponents of privatization to challenge privatization transactions successfully. He said that under the current system, any individual has standing to bring a suit against the PA for any transaction in any court. There are currently 80 court cases pending throughout the country and the PA only has 15 lawyers to advocate on its behalf. The proposed amendment requires that any lawsuit against the PA be brought to the Danistay directly. The Danistay has established a special "13th Chamber" that would only be responsible for privatization and competition cases.

COMMENT

19. (SBU) The PA is committed to achieving its privatization goals and appears to be pushing ahead with its ambitious agenda. The Petkim road-show seems to have generated a good level of interest. However, repeated delays, setbacks, and legal obstacles are a lurking threat. The second failed attempt to privatize Tekel's tobacco business underlines the PA's weak record, particularly for block sales of large companies. So far, the PA has been successful with sales of minority share IPOs but larger enterprises like Turk Telecom, Erdemir, and Tupras--the GOT's "crown jewels" according to Kilci--have yet to be transferred into the private sector.
End Comment.
EDELMAN